

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

HAROLD EDWARDS,

Case No. 2:21-cv-00539-GMN-EJY

Plaintiff

ORDER

v.

HUTCHINGS, *et al.*,

Defendants

On April 6, 2021, this Court issued an order directing Plaintiff to file a fully complete application to proceed *in forma pauperis* or pay the full \$402 filing fee on or before June 4, 2021. (ECF No. 3). On April 16, 2021, Plaintiff filed a motion for service (ECF No. 4). The June 4, 2021 deadline has now expired, and Plaintiff has not filed a fully complete application to proceed *in forma pauperis* or paid the full \$402 filing fee as directed in the Court's April 6, 2021 order.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with local rules).

1 In determining whether to dismiss an action for lack of prosecution, failure to obey
2 a court order, or failure to comply with local rules, the court must consider several factors:
3 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
4 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
5 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
6 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at
7 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

8 Here, the Court finds that the first two factors, the public's interest in expeditiously
9 resolving this litigation and the Court's interest in managing the docket, weigh in favor of
10 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of
11 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay
12 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*
13 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring
14 disposition of cases on their merits—is greatly outweighed by the factors in favor of
15 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
16 the court's order will result in dismissal satisfies the “consideration of alternatives”
17 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779
18 F.2d at 1424. The Court's order requiring Plaintiff to file a fully complete application to
19 proceed *in forma pauperis* or pay the full \$402 filing fee on or before June 4, 2021
20 expressly stated: “IT IS FURTHER ORDERED that, if Plaintiff does not file a fully
21 complete application to proceed *in forma pauperis* with all three documents or pay the full
22 \$402 filing fee for a civil action on or before June 4, 2021, this case will be subject to
23 dismissal without prejudice for Plaintiff to refile the case with the Court, under a new case
24 number, when Plaintiff is has all three documents needed to file a complete application
25 to proceed *in forma pauperis* or pays the the full \$402 filing fee.” (ECF No. 3 at 3). Thus,
26 Plaintiff had adequate warning that dismissal would result from noncompliance with the
27 Court's order to file a fully complete application to proceed *in forma pauperis* or pay the
28 full \$402 filing fee on or before June 4, 2021.

1 IT IS THEREFORE ORDERED that this action is dismissed without prejudice
2 based on Plaintiff's failure to file a fully complete application to proceed *in forma pauperis*
3 or pay the full \$402 filing fee in compliance with this Court's order dated April 6, 2021.
4 (ECF No. 3).

5 IT IS FURTHER ORDERED that Plaintiff's pending motion for service (ECF No. 4)
6 is denied as moot.

7 IT IS FURTHER ORDERED that the Clerk of Court will close the case and enter
8 judgment accordingly. No other documents may be filed in this now-closed case.

9 DATED: June 11, 2021

GLORIA M. NAVARRO
UNITED STATES DISTRICT JUDGE